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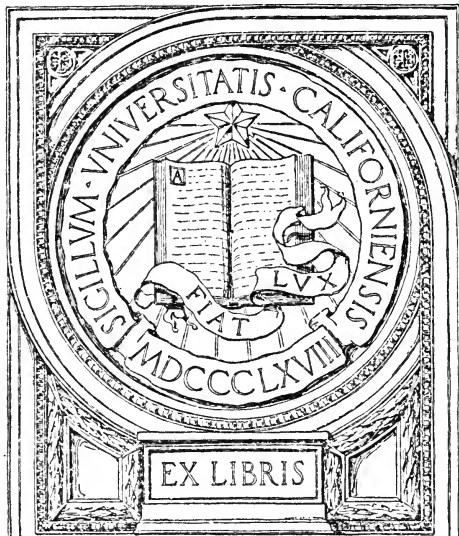
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# Proposed Charter for the City of Ashtabula, Ohio.

PREPARED AND SUBMITTED BY THE CHARTER COMMISSION



DATE OF ELECTION  
TUESDAY, NOV. 3, 1914

(COPY OF BALLOT)

## MUNICIPAL CHARTER BALLOT AN ELECTION

To Determine—Shall the Proposed Charter as formulated and submitted by the Charter Commission, elected November 4, 1913, be adopted.

<input type="checkbox"/>	For the Adoption of the Charter
<input type="checkbox"/>	Against the Adoption of the Charter

UNIV. OF  
CALIFORNIA

## VOTERS OF ASHTABULA:

JS 547  
AB 44  
1914

The large affirmative vote by which you elected a Charter Commission less than a year ago justifies the presumption that the people of Ashtabula desire to consider a new form of government. Believing this and appreciating the responsibility imposed upon it, the Charter Commission has, after mature deliberation, incorporated within the following provisions those principles deemed essential in a municipal government approximating the highest standard of impartiality and efficiency. The Commission has carefully considered Charters from twelve other Ohio Cities, so that it can truthfully be said that this Charter is the product of the combined wisdom of approximately 200 representative citizens of the larger municipalities of Ohio.

The following are a few of the many important and distinctive features embodied in the Charter submitted which render it worthy of your earnest consideration:

1. It provides "Home Rule" for Ashtabula, with freedom from legislative control or interference in purely local matters.

2. It places the administration of municipal affairs and the whole responsibility therefor in the hands of a Council of seven citizens who are directly accountable to the people, thus avoiding the shifting of duties and responsibilities among public officials.

3. It provides for nomination of members of Council by petition only, and their election on a non-partisan ballot. All other officers are appointed by the Council.

4. It provides for a "City Manager" selected by the Council on account of his peculiar fitness for business administration of municipal affairs. All subordinate officers and employees are appointed by the City Manager, upon merit and fitness alone, thus tending to develop trained public servants.

5. It makes the Council responsive to public opinion by means of the Initiative and Referendum.

6. It furnishes a simple and direct method of removing inefficient or corrupt officials through the Recall.

7. It affords capable men the opportunity of holding office during good behavior.

8. It aims to promote better Civil Service regulations to insure continuance in office of competent employees.

9. It requires public hearings upon money appropriations.

10. It secures full publicity of official acts, yet eliminates wasteful methods of legal advertising.

11. It creates a Purchasing Department which will effect great saving in the purchase of supplies.

12. It permits public work to be done by direct labor as well as by contract.

13. It safeguards the City in Franchise matters.

14. It will avoid much unnecessary tearing up of streets for service connections; and

15. It recognizes the people as the sole source of governmental powers and imposes upon each member of the community the duty and responsibility of actively interesting himself in the affairs of his City.

This Charter may be amended by a simple and adequate method to meet any changed conditions or future needs of the City. Its adoption is urged in the interest of a "Bigger, Better, and Busier" Ashtabula.

Respectfully submitted,

THE CHARTER COMMISSION.

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TO THE  
ASHTABULA

# CHARTER

## Of the City of Ashtabula, Ohio

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# CHARTER

## Of the City of Ashtabula, Ohio

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We, the people of the City of Ashtabula, Ohio, in order to obtain the benefits of local self-government, to encourage more direct and business-like methods in the transaction of our municipal affairs, and otherwise to promote our common welfare, do adopt the following Charter of our City:

### CORPORATE POWERS, RIGHTS AND PRIVILEGES.

#### Name and Powers.

Section 1. The inhabitants of the City of Ashtabula, as its limits now are, or may hereafter be, shall be a body politic and corporate by name, The City of Ashtabula, and as such shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property in fee simple or lesser interest or estate by purchase, gift, devise, appropriation, lease, or lease with the privilege to purchase for any municipal purpose; may sell, lease, hold, manage, and control such property, and make any and all rules and regulations by ordinance or resolution which may be required to carry out fully all the provisions of any conveyance, deed, or will, in relation to any gift or bequest, or the provisions of any lease by which it may acquire property; may acquire, construct, own, lease and operate and regulate public utilities; may assess, levy and collect taxes for general and special purposes on all the subjects or objects which the city may lawfully tax; may borrow money on the faith and credit of the city by the issue or sale of bonds or notes of the city; may appropriate the money of the city for all lawful purposes; may create, provide for, construct, regulate and maintain all things of the nature of public works and improvements; may levy and collect assessments for local improvements; may license and regulate persons, corporations and associations engaged in any business, occupation, profession or trade; may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city, and all nuisances and causes thereof; may regulate the construction, height, and the material used in all buildings, and the maintenance and occupancy thereof; may regulate the construction, location, size, height, and the materials used in all bill-boards, and the maintenance and use of the same; may regulate and control the use, for whatever purposes, of the streets and other public places; may create, establish, organize and abolish offices and fix the salaries and compensations of all officers and employees; may make and enforce local police, sanitary and other regulations; and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the city, and for the performance of the functions thereof. The city shall have all powers that now are, or hereafter may be granted to municipalities by the Constitution or laws of Ohio; and all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this Charter, or when not prescribed herein, in such manner as shall be provided by ordinances or resolutions of the Council.

### **Enumerated Powers Not Exclusive.**

Section 2. The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the city shall have, and may exercise, all other powers which, under the Constitution and laws of Ohio, it would be competent for this Charter specifically to enumerate.

### **THE COUNCIL.**

#### **Powers.**

Section 3. All powers of the city, except such as are vested in the Board of Education and in the Police Court, and except as otherwise provided by this Charter or by the Constitution of the State, are hereby vested in a Council to consist of seven members elected at large; and, except as otherwise prescribed by this Charter or by the Constitution of the State, the Council may by ordinance or resolution prescribe the manner in which any power of the city shall be exercised. In the absence of such provision as to any power, such power shall be exercised in the manner now or hereafter prescribed by the general laws of the State applicable to municipalities.

#### **Term of Office.**

Section 4. Members of Council shall hold office for a term of four years, beginning January first after their election, excepting that the three members elected at the first election by the lowest vote shall hold office for the term of two years only.

#### **Qualifications of Members.**

Section 5. Each member of the Council for at least five years immediately prior to his election shall have been, and during his term of office shall continue to be, a resident of the City of Ashtabula, Ohio, and shall have the qualifications of an elector therein. He shall not hold any other public office or employment except that of Notary Public or member of the State Militia.

The Council shall be judge of the election and qualification of its members. It may punish or expel any member for disorderly conduct or violation of its rules. Expulsion shall not take place without the concurrence of five members, nor until the delinquent member shall have been notified of the charge against him and given an opportunity to be heard.

#### **Vacancies.**

Section 6. Any vacancy in the Council, except as otherwise provided in this Charter, shall be filled for the unexpired term by appointment by the remaining members by the vote of at least four. If the term of the office so filled does not expire for two years or more after the next regular municipal election following such vacancy, and such vacancy occurs in time to permit it, an additional member of Council shall be elected at such election; and, of those members of Council elected at such election the one having the lowest vote shall succeed such appointee on January first after



his election and serve the unexpired term. In the event of more than one vacancy to be so filled by election, the same provisions shall apply.

### **Salary.**

Section 7. Each member of the Council, except the President, shall receive a salary of one hundred dollars a year, and the President of Council shall receive a salary of one hundred and fifty dollars per year, payable in equal monthly installments.

### **President.**

Section 8. The Council shall at the time of organizing elect one of its members as President and another as Vice-President for terms of two years. In case the members of the Council within five days after the time herein fixed for their organization meeting, are unable to agree upon a President or a Vice-President of such Council then a President, or a Vice-President, or both, as the occasion may require, shall be selected from the two members receiving the highest number of votes therefor, by lot conducted by the City Solicitor, who shall certify the result of such lot upon the journal of the Council.

The President shall preside at all meetings of the Council and perform such other duties consistent with his office as may be imposed by it; and he shall have a voice and vote in its proceedings, but no veto. He may use the title of Mayor in the execution of legal instruments or where the general laws of the State so require; but this shall not be construed as conferring upon him the administrative or judicial functions of a Mayor under the general laws of the State, except that if the Police Court of the city be abolished without the establishment of another Court therein with like or similar criminal jurisdiction, and until such Court is established, the President of the Council as ex-officio Mayor shall exercise all the judicial functions of a Mayor under the general laws of the State, and shall receive for such services an additional compensation of \$600 per annum, payable monthly.

The President of the Council shall be recognized as the official head of the city by the Courts for the purpose of serving civil process, by the Governor for the purposes of military law, and for all ceremonial purposes. He may take command of the police and govern the city by proclamation during times of public danger or emergency, and the Council shall be the judge of what constitutes such public danger or emergency. The powers and duties of the President shall be such as are conferred upon him by this Charter, together with such others as are conferred by the Council in pursuance of the provisions of this Charter, and no others.

If the President be temporarily absent from the city, or becomes temporarily disabled from any cause, his duties shall be performed during such absence or disability by the Vice-President. In the absence of both President and Vice-President the other members of the Council shall select one of their number to perform the duties of President.

### **Appointees.**

Section 9. The Council shall appoint a City Manager, a City Solicitor, a City Treasurer, a Health Officer, and a City Auditor. The City Auditor

shall be ex-officio Clerk of the Council, and shall keep its records and perform all other duties required by this Charter or by the Council. Council may also appoint and employ such other officers and employees of its body as it deems necessary. Council shall also designate some officer of the city, other than the City Auditor or City Treasurer, to act as its Purchasing Agent. All appointees of the Council shall hold office at the pleasure of the Council.

#### **Time of Meeting.**

Section 10. At seven-thirty o'clock P. M. on the second day of January following a regular municipal election, or if such day be Sunday, on the day following, the Council shall meet at the usual place for holding the meetings of the legislative body of the city for the purpose of organization. Thereafter the Council shall meet at such times as may be prescribed by ordinance or resolution, except that it shall meet regularly not less than once each week. The President, any two members of the Council, or the City Manager, may call special meetings of the Council, upon at least twelve hours' written notice to each member, served personally or left at his usual place of residence. All meetings of the Council shall be public and any citizen shall have access to the minutes and records thereof at all reasonable times. The Council shall determine its own rules and order of business and shall keep a journal of its proceedings.

#### **Penalty for Absence.**

Section 11. For each absence of a member of Council from a regular meeting of the Council, there shall be deducted a sum equal to two per cent. of the annual salary of such member. Absence from five consecutive regular meetings shall operate to vacate the seat of a member unless the absence is excused by the Council by resolution setting forth such excuse and entered upon the journal.

#### **Legislative Procedure.**

Section 12. The legislative action of Council shall be by ordinance or resolution, provided that this shall not apply to action accepting a bid for work and directing the appropriate officer to enter into a contract, to action ordering the dismissal of an officer, to action ordering an election, or to action directing an officer or board to furnish the Council with information as to the affairs of any office, department or board.

A majority of all the members elected to the Council shall be a quorum, but a less number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of at least four members shall be necessary to adopt any ordinance or resolution; and the vote upon the passage of all ordinances and resolutions shall be taken by "yeas" and "nays" and entered upon the journal.

#### **Ordinance Enactment.**

Section 13. Each proposed ordinance or resolution shall be introduced in written or printed form, and shall not contain more than one subject, which shall be clearly stated in the title; but general appropriation ordi-

nances may contain the various subjects and accounts for which moneys are to be appropriated. The enacting clause of all ordinances passed by the Council shall be, "Be it ordained by the Council of the City of Ashtabula, Ohio." The enacting clause of all ordinances submitted to popular election by the initiative shall be: "Be it ordained by the people of the City of Ashtabula, Ohio."

No ordinance, unless it be an emergency measure, shall be passed until it has been read at two regular meetings not less than one week apart, or the requirement of such reading has been dispensed with by the vote of at least five members of the Council. No ordinance or resolution or section thereof shall be revised or amended, unless the new ordinance or resolution contain the entire ordinance or resolution or section revised or amended; and the original ordinance, resolution, section or sections so amended shall be repealed.

No resolution declaring it necessary to proceed with any public improvement shall be adopted until complete plans, specifications, profiles and estimates have been submitted to the Council and approved by it; and the same, or a copy thereof, shall thereafter remain on file in the office of the City Engineer, subject to inspection by the public.

### **Emergency Measures.**

Section 14. All ordinances and resolutions passed by the Council shall be in effect on and after the thirtieth day from the date of their passage except that the Council may, by the vote of five members, pass emergency measures to take effect at the time indicated therein.

An emergency measure is an ordinance or resolution providing for the immediate preservation of the public peace, property, health or safety, or for the usual daily operation of a municipal department, in which the emergency is set forth and defined in a preamble thereto. Ordinances appropriating money may be passed as emergency measures, but no measure making a grant, renewal or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility, shall ever be so passed.

### **Record and Publication.**

Section 15. Every ordinance or resolution upon its final passage shall be recorded in a book kept for that purpose, and shall be authenticated by the signatures of the presiding officer and the Clerk of the Council. Every ordinance or resolution of a general or permanent nature shall be published once within ten days after its final passage in the manner hereinafter provided; except that whenever the passage of more than one ordinance or resolution is required by law to complete the legislation necessary to make and pay for any public improvement, the provisions of this section shall apply only to the first ordinance or resolution required to be passed, and not to any subsequent ordinance or resolution relating thereto, provided that before issuing bonds to pay for any public improvement Council may publish a notice headed, "Notice of Bond Issue for Public Improvement," describing said improvement in general terms and setting forth within what time assessments on property specially benefited may be paid in cash, and for what period of time and at what rate of interest bonds will be issued for that portion of the assessment not so paid.

### **Times of Publication.**

Section 16. Advertisements for bids for work and notices of the sale or lease of real estate or sale of personal property shall be published once a week for not less than two nor more than four consecutive weeks; proclamations of elections, such number of times as provided by law; and all other matters, once.

### **Price and Mode of Publication.**

Section 17. All the above mentioned publications, as well as all other newspaper publications made by the city, except as hereinafter provided, shall be published in one newspaper of general circulation in the city, printed in the English language, to be designated by the Council. Before designating the newspaper to carry such publications the Council shall request all such newspapers to submit sealed bids for such publishing together with their published rate card for commercial advertising, and a sworn statement of their bona fide net paid circulation within the City of Ashtabula, and in making such designation the Council shall take into consideration both the rate and circulation of the newspaper, and the City shall thereupon enter into a contract with the newspaper so designated for such period of time, not exceeding three years, as Council shall determine.

All such publications shall be set solid in the regular reading type of the newspaper so designated, but not larger than eight-point type and nine-point body, with an eighteen-point headline specifying the nature of the publication; provided that by order of Council special notices or advertising may be set in larger type than above specified, and notices of the sale of bonds may be published in not to exceed two newspapers published outside of the city. The newspaper carrying any or all of such publications shall be paid for the quantity of space used at a rate no higher than it charges for the same space for commercial display advertising. Whenever it may appear to the Council that the rates offered by such newspapers are unfair, such other means of securing due publicity may be employed, in lieu of newspaper advertising, as the Council may by resolution determine.

### **Salaries and Bonds.**

Section 18. The Council shall fix by ordinance the salary or rate of compensation of all officers and employees of the city entitled to compensation, except as otherwise provided in this Charter; but this shall not prevent the city from securing the services of special or temporary employees who shall receive such compensation as may be agreed upon, and approved by Council. Council may require any officer or employee to give a bond for the faithful performance of his duty, in such an amount as it may determine, and it may provide that the premium thereof shall be paid by the city.

### **General Disqualifications.**

Section 19. No member of the Council, the City Manager or any other officer or employee of the city, shall be directly or indirectly interested in any contract, job, work or service with or for the city; nor in the profits or emoluments thereof, nor in the expenditure of any money on the part of the city, other than his fixed compensation; and any contract with the

City in which any such officer or employee is, or becomes, interested may be declared void by the Council.

No member of the Council, the City Manager or other officer or employee of the city shall knowingly accept any gift, frank, free ticket, pass, reduced price or reduced rate of service from any person, firm or corporation operating a public utility or engaged in business of a public nature within the city, or from any person known to him to have or to be endeavoring to secure, a contract with the city; but the provisions of this section shall not apply to the transportation of policemen or firemen in uniform or wearing their official badges, when the same is provided for by ordinance.

## **INITIATIVE AND REFERENDUM.**

### **The Initiative.**

Section 20. Any proposed ordinance may be submitted to the Council by petition signed by electors of the city equal in number to ten (10) per cent. of the total number of registered electors therein. All petition papers, circulated with respect to any proposed ordinance, shall be uniform in character, and shall contain the proposed ordinance in full, and the names and addresses of at least five electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purpose hereinafter named.

Each signer of a petition shall sign his name in ink or indelible pencil, and shall place on the petition paper after his name his place of residence by street and number, and the date of signing. The signatures to any such petition need not all be appended to one paper but to each such paper there shall be attached an affidavit by the circulator thereof stating the number of signers to such part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and was made in the presence of the affiant and on the date indicated. No person shall sign more than one petition paper for the same purpose.

Before any ordinance so proposed shall be submitted to the Council, its form shall be approved by the City Solicitor, who shall endorse his approval thereon; and it shall be the duty of the City Solicitor to draft any such proposed ordinance in proper legal language and to render such other services to persons desiring to propose such ordinance as shall be necessary to make the same proper for consideration by the Council.

All papers comprising a petition shall be assembled and filed with the Clerk of the Council as one instrument within one hundred twenty days from the date of the first signature thereon. Within ten days from the filing of such petition the Clerk shall endorse thereon a certificate showing the number of signatures of qualified electors contained therein and the number required.

If the Clerk's certificate shows that the petition is insufficient he shall at once notify each member of the committee of the petitioners, hereinbefore provided for, and the petition may be supplemented at any time within fifteen days from the date of such notification by filing with the Clerk an additional petition paper or papers in the same manner as provided for the original petition.

Upon the filing of such supplemental petition the Clerk shall, within ten days thereafter, attach thereto his certificate as hereinbefore required.

If the petition as so supplemented is still insufficient, or if no supplement shall have been filed, the Clerk shall file the petition in his office and shall notify each member of the committee of that fact. The final finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

When the certificate of the the Clerk shows the petition to be sufficient, he shall submit the proposed ordinance to the Council at its next regular meeting and the Council shall take final action thereon within thirty days from the date of such submission. If the Council reject the proposed ordinance, or pass it in a form different from that set forth in the petition, the committee of the petitioners may require that it be submitted to a vote or the electors in its original form, or that it be submitted to a vote of the electors with any proposed change, addition or amendment, which was presented to Council in writing by said committee during the consideration thereof by the Council.

When an ordinance proposed by petition is to be submitted to a vote of the electors the committee of the petitioners shall certify that fact and the proposed ordinance to the Clerk of the Council within forty (40) days after the submission of such proposed ordinance to the Council.

Upon receipt of the certificate and certified copy of the proposed ordinance, the Clerk shall certify that fact to the Council at its next regular meeting. If no election is to be held within six months and more than thirty days after the receipt of the Clerk's certificate by the Council, the Council may provide for submitting the proposed ordinance to the electors at a special election. If a supplemental petition, signed by electors equal in number to twenty-five (25) per cent. of the total number of registered electors in the municipality other than and in addition to those who signed the original petition, be filed with the Clerk asking that the proposed ordinance be submitted to the voters at a time indicated in such petition, the Council shall provide for a special election at such time. The sufficiency of any such petition shall be determined, and it may be supplemented, in the manner hereinbefore provided for original petitions for proposing ordinances to the Council. If no other provision be made as to the time of submitting a proposed ordinance to a vote of the electors, it shall be submitted at the next election.

The ballots used when voting upon any such proposed ordinance shall state the title of the ordinance to be voted on and below it the two propositions, "For the Ordinance" and "Against the Ordinance." Immediately at the left of each proposition there shall be a square in which by making a cross (X) the voter may vote for or against the proposed ordinance. If a majority of the qualified electors voting on any such proposed ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the city.

No ordinance adopted by an electoral vote shall be repealed or amended except by an electoral vote, but an ordinance to repeal or amend any such ordinance may, by resolution of the Council, be submitted to an electoral vote on the day of any regular or special election or at a special municipal election called for that purpose, provided notice of the intention so to do be published by Council not more than sixty nor less than thirty days prior to such election in the manner required for the publication of ordinances. If an amendment is so proposed, such notice shall contain

the proposed amendment in full. Such submission shall be in the same manner, and the vote shall have the same effect, as in cases of ordinances submitted to an election by popular petition.

Proposed ordinances for repealing any existing ordinance or ordinances in whole or in part, or amending the same, may be submitted to the Council as provided in the preceding sections for initiating ordinances.

### **The Referendum.**

Section 21. No ordinance passed by the Council, unless it be an emergency measure, shall go into effect until the thirtieth day after its final passage. If, at any time, within said period a petition signed by qualified electors of the city equal in number to ten (10) per cent. of the total number of registered electors therein, be filed with the Clerk of the Council requesting that any such ordinance be repealed or submitted to a vote of the electors, it shall not become operative until the steps indicated herein have been taken.

When such a petition is filed with the Clerk of the Council he shall determine the sufficiency thereof in the manner provided in Section 20 of this Charter. If the petition be found sufficient, or be rendered sufficient by a supplemental petition which may be filed as provided in said Section 20, the Clerk shall certify that fact to the Council, which shall proceed to reconsider the ordinance. If, upon such reconsideration, the ordinance be not entirely repealed, Council shall provide for submitting it to a vote of the electors, and in so doing the Council shall be governed by the provisions of said Section 20 respecting the time of submission and manner of voting on ordinances proposed to the Council by petition. If when submitted to a vote of the electors any such ordinance be not approved by a majority of those voting thereon, it shall be deemed repealed.

Referendum petitions need contain only the title, number and date of passage of the ordinances, the repeal of which is sought; but they shall be subject in all other respects to the requirements for petitions submitting proposed ordinances to the Council. Ballots used in referendum elections shall conform in all respects to those provided for in said Section 20 of this Charter.

### **Ordinances.**

Section 22. Ordinances submitted to the Council by initiative petition and passed by the Council without change, or passed in an amended form and not required to be submitted to a vote of the electors by the committee of the petitioners, shall be subject to the referendum in the same manner as other ordinances.

### **Conflicting Ordinances.**

Section 23. If the provisions of two or more ordinances adopted or approved at the same election conflict, the conflicting provisions of the ordinance receiving the highest affirmative vote shall prevail.

### **Referendum On Emergency Measures.**

Section 24. Ordinances passed as emergency measures shall be subject to referendum in like manner as other ordinances, except that they

shall go into effect at the time indicated in such ordinances. If, when submitted to a vote of the electors, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder; but such measure so repealed shall be deemed sufficient authority for payments made or expense incurred in accordance therewith previous to the referendum vote thereon.

### **When Referendum Does Not Apply.**

Section 25. The following ordinances or measures shall not be subject to the referendum, but shall go into effect at the time indicated therein:

(a) The annual appropriation ordinance.

(b) In all cases where Council is required to pass more than one ordinance or other measure to complete the legislation necessary to make and pay for any public improvement, the referendum shall apply only to the first ordinance or measure required to be passed and not to any subsequent ordinances or measures relating thereto, and said first ordinance or measure shall clearly state the purpose and general scope of the improvement.

(c) Ordinances or resolutions providing for the approval or disapproval of appointments or removals by the City Manager, and appointments or removals made by the Council.

(d) Actions by the Council on the approval of official bonds.

(e) Ordinances or resolutions providing for the submission of any proposition to a vote of the electors.

### **Referendum—Preliminary Action.**

Section 26. In case a petition be filed requiring that a measure passed by the Council, providing for an expenditure of money, a bond issue, or a public improvement be submitted to a vote of the electors, all the steps preliminary to such actual expenditure, actual issuance of bonds, or actual execution of a contract for such improvement, may be taken prior to the election.

## **CITY MANAGER.**

### **Appointment.**

Section 27. The Council shall appoint a City Manager who shall be the administrative head of the municipal government under the direction and supervision of the Council, and who shall hold office at the pleasure of the Council. He shall be appointed without regard to his political beliefs and need not be a resident of the city at the time of his appointment. During the absence or disability of the City Manager the Council may designate some properly qualified person to execute the functions of the office.

### **Powers and Duties.**

Section 28. The powers and duties of the City Manager shall be:

(a) To see that the laws and ordinances be enforced.

(b) Except as herein provided, to appoint and remove all heads of departments, and all subordinate officers and employees of the City; all appointments to be upon merit and fitness alone.



(c) To exercise control over all departments and divisions created herein or that hereafter may be created by the Council.

(d) To see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise be faithfully kept and performed; and upon knowledge of any violation thereof to call the same to the attention of the City Solicitor, who is hereby required to take such steps as are necessary to enforce the same.

(e) To attend all meetings of the Council, with the right to take part in the discussions but having no vote.

(f) To recommend to the Council for adoption such measures as he may deem necessary or expedient.

(g) To act as budget commissioner and to keep the Council fully advised as to the financial condition and needs of the City; and

(h) To perform such other duties as may be prescribed by this Charter or be required of him by ordinance or resolution of the Council.

### **Heads of Departments.**

Section 29. Excepting the departments of City Solicitor, City Auditor, City Treasurer, Health Officer, and Sinking Fund, the City Manager shall be the acting head of each and every department of the City until otherwise provided by the Council; but with the consent and approval of the Council, he may appoint a Deputy or Chief Clerk to represent him in any department of which he is the acting head. No member of the Council shall interfere with the conduct of any department, except at the express direction of Council.

### **Platting Commissioner.**

Section 30. The City Manager shall be the Platting Commissioner of the City and shall exercise the authority and discharge the duties of that office under the provisions of the general law of the State applicable thereto, except as the same may be modified by the Council.

### **Salary.**

Section 31. The City Manager shall receive such salary as may be fixed by ordinance of the Council.

## **ADMINISTRATIVE OFFICERS AND DEPARTMENTS.**

### **City Solicitor.**

Section 32. The City Solicitor shall be an Attorney at Law admitted to practise in the State of Ohio and shall have such assistants of like qualifications as the Council may authorize. The City Solicitor shall be the legal adviser of and attorney and counsel for the municipality, and for all officers and departments thereof in matters relating to their official duties. He shall prepare all contracts, bonds and other instruments in writing in which the municipality is concerned, and shall endorse on each his approval of the form and correctness thereof; and no such contract with the City shall take effect until his approval is endorsed thereon. He or his assistant shall be the Prosecuting Attorney of the Police Court or any Municipal Court which may hereafter be established, and he shall

perform such other duties as the Council shall require.

### **City Auditor.**

Section 33. The City Auditor shall issue all warrants for the payment of money by the City. He shall keep an accurate account of all taxes and assessments, of all money due to, and of all receipts and disbursements by the municipality, of all its assets and liabilities, and of all appropriations made by the Council. At the end of each fiscal year, and oftener if required by the Council, he shall audit the accounts of the several departments and officers, and shall audit all other accounts in which the municipality is interested. He may prescribe the form of reports to be rendered to his department, and the method of keeping accounts by all other departments, and he shall require reports from each department at such stated intervals and such other times as he may deem necessary, showing all moneys received by such department and the disposition thereof. Upon the death, resignation, removal, or expiration of the term of any officer, the City Auditor shall audit the accounts of such officer, and if such officer shall be found indebted to the municipality he shall immediately give notice thereof to the Council and the City Solicitor; and the latter shall forthwith proceed to collect the same.

### **City Treasurer.**

Section 34. The City Treasurer shall be the custodian of all moneys of the municipality, and shall keep and preserve the same in such manner and in such place or places as shall be determined by the Council. He shall pay out money only on warrants issued by the City Auditor. The office of the City Treasurer may be combined with any other office not inconsistent therewith.

### **Purchasing Agent.**

Section 35. The Purchasing Agent shall purchase all supplies for the city, and approve all vouchers for the payment of the same. He shall also conduct all sales of personal property which the Council may authorize to be sold as having become unnecessary or unfit for the city's use.

All purchases and sales shall conform to such regulations as the Council may from time to time prescribe; but in either case, if any amount in excess of five hundred dollars is involved, opportunity for competition shall be given. Where purchases or sales are made on joint account of separate departments, the Purchasing Agent shall apportion the charge or credit to each department. He shall see to the delivery of supplies to each department, and take and retain the receipt of each department therefor. Until the Council shall otherwise provide, the City Manager shall act as such Purchasing Agent.

### **Trustees of the Sinking Fund.**

Section 36. The Board of Trustees of the Sinking Fund as now organized and existing shall continue, and such Board and all matters pertaining thereto shall be governed by the general laws of the State in effect January 1st, 1916, or thereafter enacted and applicable thereto; excepting that the members of said Board shall serve without compensation. The

present members of said Board shall continue to serve for their unexpired terms; but their successors shall be appointed, and vacancies in said Board shall be filled, by the President of the Council, with the consent of said Council entered upon its journal.

### **Other Boards and Departments.**

Section 37. Excepting the officers, boards, commissions and departments hereinbefore specially mentioned and provided for, the Council shall have power to establish, create, combine or abolish offices, boards, departments or divisions when in its opinion the proper administration of the business of the city so requires; provided that all other administrative departments in existence January 1st, 1916, shall continue until otherwise provided by the Council, and all administrative boards in charge of any administrative department of the city shall continue in office, and their successors shall be appointed as heretofore, excepting as other provision is made in this Charter, or may hereafter be made by the Council.

### **Political Activity.**

Section 38. Neither the City Manager, nor any person in the employ of the city under him shall take any active part in securing, or contribute any money toward, the nomination or election of any candidate or candidates for the office of Member of Council, excepting to answer such questions as may be put to him and as he may desire to answer.

### **Penalties.**

Section 39. The provisions of the last preceding section and of Section nineteen shall not be considered exclusive, but as in addition to any other provisions of the general law of the State applicable to the case; and a violation of any provision of such sections shall subject the offender to removal from his office or employment, and to punishment by a fine of not exceeding one hundred dollars.

## **CIVIL SERVICE.**

### **The Civil Service Commission.**

Section 40. The Council may appoint three qualified electors of the city, no two of whom shall belong to the same political party, as members of the Civil Service Commission to serve for a term of three years, and until their successors have been appointed and have qualified. A vacancy shall be filled by the Council, for the unexpired term. The Council may at any time remove any Commissioner for inefficiency, neglect of duty or malfeasance in office, having first given to such Commissioner a copy of the charges against him and an opportunity to be publicly heard, in person or by counsel, in his own defense; and any such removal shall be final; provided, however, that the members of the existing Civil Service Commission shall continue in office for the terms for which they have been appointed, and the Civil Service of the city, and such Commission and all matters pertaining thereto, shall be governed by the general laws of the State applicable thereto, until otherwise prescribed by ordinance of the Council.

## **Appointments and Removals.**

Section 41. Appointments and promotions in the Civil Service of the City shall be made according to merit and fitness, to be ascertained, as far as practicable, by competitive examinations. Ordinances may be passed to enforce this provision, to fix the powers and duties of the Commission and to prescribe rules and regulations governing the Civil Service and determining the method by which persons in the Civil Service may be promoted, transferred, reduced or discharged; provided that all persons holding positions in the Civil Service of the city at the time of the adoption of this Charter, shall retain their positions until promoted, transferred, reduced or discharged according to law or in accordance with such ordinances.

## **ELECTIONS.**

### **Nomination of Candidates.**

Section 42. Candidates for the elective offices of the city shall be nominated by petition only. Each petition shall contain the name of the candidate, giving his place of residence with street and number, if any, shall specify the office for which he is nominated, shall request the nomination of but the one candidate named therein, and shall be signed by qualified electors of the city not less in number than five (5) per cent. of the total number of registered voters therein.

Such petitions shall contain a provision that each signer thereto thereby pledges himself to support and vote for the candidate whose nomination is therein requested, and each elector signing a petition shall add to his signature his place of residence giving street and number, if any, voting precinct, and date of signing, and may subscribe to one nomination paper for each of the places to be filled and no more. All signatures shall be made with ink or indelible pencil.

Signers of such petitions shall insert in them the names of five electors as a committee who may fill vacancies caused by death or withdrawal. The signatures of all the petitioners need not be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof, stating the number of signers thereto, that each person signed in his presence on the date mentioned, that each signature is that of the person whose name it purports to be, and that all other statements therein are true to the best of his knowledge and belief.

Such petitions shall not be signed by any elector more than sixty days prior to the day of the election and such petitions shall be filed with the Board of Deputy State Supervisors of Elections of Ashtabula County, Ohio, not less than thirty-five days prior to the day of said election.

### **Acceptance.**

Section 43. Any person whose name has been submitted for candidacy by any such petition shall file his acceptance of such candidacy with the election authorities not later than thirty days previous to such election; otherwise his name shall not appear upon the ballot.

### **Ballots.**

Section 44. The ballots used in all municipal elections shall be with-

out party marks or designations. The whole number of ballots to be printed for the election of candidates for any elective office of the city shall be divided by the number of such candidates, and the quotient so obtained shall be the number of ballots in each series of ballots to be printed. The names of the candidates shall be arranged in alphabetical order and the first series of ballots printed. The first name shall then be placed last and the next series of ballots printed, and this process shall be repeated until each name shall have been first. These ballots shall then be combined into tablets with no two of the same order of names together. The ballots shall in all respects conform as nearly as may be to the ballots prescribed by the general election laws of the State.

#### **Time of Election.**

Section 45. Regular municipal elections shall be held on the first Tuesday after the first Monday in November in the odd numbered years. Any matter which by the terms of this Charter may be submitted to the electors of the city at any special election may be submitted on the day of any primary election or regular election.

#### **Election.**

Section 46. The candidates nominated by petition as provided in Section 42 shall be placed on the ballot at the next regular municipal election and those candidates, equal in number to the places to be filled, who shall receive the highest number of votes at such regular municipal election, shall be declared elected. A tie between two or more candidates for the same office shall be decided by lot under the direction of the election authorities, as provided by the general election laws of the State.

#### **General Laws to Apply.**

Section 47. Objections to nominating petitions and papers may be made within the time prescribed, and the same shall be considered by the election authorities, under the general laws applying to objections to nomination papers in municipalities, and all elections shall be conducted, and the results canvassed and certified, by the election authorities prescribed by general laws, and, except as otherwise provided by this Charter, or by ordinance or resolution of the Council hereafter enacted, the general laws shall control in all such elections.

### **THE RECALL.**

#### **Application.**

Section 48. Any or all members of the Council, provided for in this Charter, may be removed from office by the electors. The procedure to effect such removal shall be as follows:

#### **Procedure.**

Section 49. A petition demanding that the question of removing such officer or officers be submitted to the electors shall be filed with the Clerk of the Council. Such petition shall be signed by at least twenty-five (25) per cent. of the total number of registered voters in the municipality

but all the signatures to such petition need not be appended to one paper.

### **How Procured.**

Section 50. Petition papers shall be procured only from the Clerk of the Council, who shall keep a sufficient number of such blank petitions on file for distribution as herein provided. Prior to the issuance of such petition papers an affidavit shall be made by one or more qualified electors and filed with the Clerk of the Council, stating the name of the member or members of Council whose removal is sought. The Clerk of the Council, upon issuing any such petition papers to an elector, shall enter in a record, to be kept in his office, the name of the elector to whom issued, the date of such issuance and the number of papers issued and shall certify on each paper the name of the elector to whom issued and the date of issue. No petition paper shall be accepted as part of the petition unless it is so issued and bears such certificate and unless it be filed as provided herein.

### **Signatures, Requirements of.**

Section 51. Each signer of a recall petition shall sign his name in ink or indelible pencil and shall place after his name his place of residence by street and number. To each such petition paper there shall be attached an affidavit of the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper was made in his presence and is the genuine signature of the person whose name it purports to be.

### **Filing.**

Section 52. All papers comprising a recall petition shall be assembled and filed with the Clerk of the Council, as one instrument, within thirty days after the filing with the Clerk of the Council of the affidavit stating the name of the member or members of Council whose removal is sought.

### **Notice.**

Section 53. At the expiration of said period of thirty days the Clerk of the Council shall certify upon such petition whether the signatures thereto amount to at least twenty-five (25) per cent. of the registered voters of the city. If such signatures do amount to such per cent., he shall at once serve notice of that fact upon the member or members of Council designated in the petition, and also deliver to the election authorities a copy of the original petition with his certificate as to the percentage of registered voters who signed the same, and a certificate as to the date of his said notice to the member or members of Council designated in the petition.

### **Recall Election.**

Section 54. If the member or members of Council, or any of them, designated in the petition, file with the Clerk of the Council within five days after said notice from the Clerk of the Council, his or their written resignation, the same shall be irrevocable and the Clerk of the Council shall at once notify the election authorities of the fact and the election authorities shall forthwith order and fix a day for holding a recall election for the removal of those not resigning. Such election shall be held not less than

thirty nor more than sixty days after the expiration of the period of five days last mentioned, at the same time as any other general or special election held within such period; but if no general or special election be held within such period the election authorities shall call a special recall election.

### **Ballots.**

Section 55. The ballots at such recall election shall conform to the following requirements. With respect to each person whose removal is sought, the question shall be submitted; "Shall (name of person) be removed from the office of Member of Council by recall?" Immediately following each such question there shall be printed on the ballots the two propositions in the order here set forth:

"For the recall of (name of person)."

"Against the recall of (name of person)."

Immediately to the left of each of the propositions shall be placed a square in which the electors, by making a cross mark (X), may vote for either of such propositions.

### **Filling of Vacancies.**

Section 56. In any such election, if a majority of the votes cast on the question of removal of any member of Council are affirmative, the person whose removal is sought shall thereupon be deemed removed from office upon the announcement of the official canvass of that election, and the vacancy caused by such recall shall be filled by the remainder of the Council according to the provisions of Section 6 of this Charter.

If, however, an election is held for the recall of more than three members of Council, candidates to succeed them for their unexpired terms shall be voted upon at the same election, and shall be nominated by petitions signed, dated and verified in the manner required for petitions presenting names of candidates for regular municipal elections and similar in form to such petitions, and filed with the election authorities at least thirty days prior to such recall election. But no such nominating petition shall be signed or circulated until after the time has expired for signing the copies of the petition for the recall, and any signatures thereon antedating such time shall not be counted.

### **Counting the Vote.**

Section 57. Candidates shall not be nominated to succeed any particular member of Council; but if only one member of Council is removed at such election, the candidate at such election receiving the highest number of votes shall be declared elected to fill the vacancy; and if more than one member of Council is removed at such election, such candidates receiving the highest number of votes equal in number to the number of members of Council removed shall be declared elected to fill the vacancies; and among the successful candidates, those receiving the greater number of votes shall be declared elected for the longer terms. Cases of ties, and all other matters not herein specially provided for, shall be determined by the rules governing elections generally.

## **Effect of Resignations.**

Section 58. No proceedings for the recall of more than three members of the Council at the same election shall be defeated in whole or in part by the resignation of any or all of them, but upon the resignation of any of them the Council shall have power to fill the vacancy until a successor is elected, and the proceedings for the recall and the election of successors shall continue and have the same effect as though there had been no resignation.

## **Miscellaneous Provisions.**

Section 59. Except as herein otherwise provided, no petition to recall any member of Council shall be filed within six months after he takes office. No person removed by recall shall be eligible to be elected or appointed to the Council for a period of two years after the date of such recall. The Clerk of the Council shall preserve in his office all papers comprising or connected with a petition for a recall for the period of one year after the filing of the same. The method of removal herein provided is in addition to such other methods as are, or may be, provided by general law.

## **Offenses Relating to Petitions.**

Section 60. No person shall falsely impersonate another, or purposely write his name or residence falsely, in the signing of any petition for nomination, initiative, referendum or recall, or forge any name thereto, or sign any such paper with knowledge that he is not a qualified elector of the city. Nor shall any person employ or pay another, or accept employment or payment, for circulating any nomination, initiative, referendum or recall petition upon the basis of the number of signatures procured thereto. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall, upon conviction, be fined in any sum not to exceed one hundred dollars and the costs of prosecution. The foregoing provisions shall not be held to be exclusive of, but in addition to, all laws of the State prescribing penalties for the same offenses or for other offenses relating to the same matter.

## **APPROPRIATIONS.**

### **The Estimate.**

Section 61. The fiscal year of the city shall begin on the first day of January. On or before the first day of November of each year the City Manager shall submit to the Council an estimate of the expenditures and revenues of the city departments for the ensuing year. This estimate shall be compiled from detailed information obtained from the several departments on uniform blanks to be furnished by the City Manager. The classification of the estimate of expenditures shall be as nearly uniform as possible for the main functional divisions of all departments, and shall give in parallel columns the following information:

(a) A detailed estimate of the expense of conducting each department as submitted by the department.



(b) Expenditures for corresponding items for the last two fiscal years.

(c) Expenditures for corresponding items for the current fiscal year, including adjustments due to transfers between appropriations plus an estimate of expenditures necessary to complete the current fiscal year.

(d) Amount of supplies and material on hand at the date of the preparation of the invoice.

(e) Increase or decrease of requests compared with the corresponding appropriations for the current year.

(f) Such other information as is required by the Council or that the City Manager may deem advisable to submit.

(g) The recommendation of the City Manager as to the amounts to be appropriated with reasons therefor in such detail as the Council may direct.

Sufficient copies of such estimates shall be prepared and submitted, that there may be copies on file in the office of the Clerk of Council for inspection by the public.

### **Appropriation Ordinance.**

Section 62. Upon receipt of such estimate the Council shall prepare an appropriation ordinance but before finally acting upon such tentative appropriation it shall fix a time and place for holding a public hearing upon the tentative appropriation, and shall give public notice of such hearing. The Council shall not pass the appropriation ordinance until ten days after such public hearing.

### **Transfer of Funds.**

Section 63. Upon request of the City Manager the Council may transfer any part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year has proved insufficient or may authorize a transfer to be made between items appropriated to the same office or department.

### **Unencumbered Balances.**

Section 64. At the close of each fiscal year the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriation. Any accruing revenue of the city, not appropriated as hereinbefore provided, and any balances at any time remaining after the purposes of the appropriation shall have been satisfied or abandoned, may from time to time be appropriated by the Council to such uses as will not conflict with any uses for which such revenues specifically accrued. No money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of money incurred, except pursuant to the appropriations made by the Council, but nothing in this or the preceding section shall be construed to authorize the application of revenue derived from a public utility of the city to any other purpose than that of the utility from which the same was derived.

## **PAYMENTS—REPORTS.**

### **Payment of Claims.**

Section 65. No warrant for the payment of any claim shall be issued by the City Auditor until such claim shall have been approved by the head of the department for which the indebtedness was incurred and by the City Manager, and such officers and their sureties shall be liable to the municipality for all loss or damage sustained by the municipality by reason of the corrupt approval of any such claim against the municipality. Whenever any claim shall be presented to the City Auditor he shall have power to require evidence that the amount claimed is justly due and is in conformity to law and ordinance, and for that purpose he may summon before him any officer, agent, or employee, of any department of the municipality, or any other person, and examine him upon oath or affirmation relative thereto.

### **Certification of Funds.**

Section 66. No contract, agreement or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance, resolution or order for the expenditure of money be passed by the Council, or be authorized by any officer of the city, unless the City Auditor shall first certify to the Council or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure, is in the treasury, to the credit of the fund from which it is to be drawn, and not appropriated for any other purpose, which certificate shall be filed and immediately recorded. The sum so certified shall not thereafter be considered unappropriated until the city is discharged from the contract, agreement or obligation. The provisions of this section shall not apply to contracts or proceedings relating to improvements any part of the cost of which is to be paid by special assessments.

### **Money in the Fund.**

Section 67. All moneys actually in the treasury to the credit of the fund from which they are to be drawn, and all moneys applicable to the payment of the obligation or appropriation involved that are anticipated to come into the treasury before the maturity of such contract, agreement, or obligation, from taxes, assessments, or license fees, or from sales of services, products or by-products of any city undertaking, and moneys to be derived from lawfully authorized bonds sold and in process of delivery, for the purposes of such certificate shall be deemed in the treasury to the credit of the appropriate fund and shall be subject to such certification.

### **Financial Reports.**

Section 68. The Council shall have furnished them a monthly balance showing in detail all receipts and expenditures of the city for the preceding month; and the aggregate receipts and expenditures of each department shall be published by the Council in such manner as to provide full publicity. At the end of each year the Council shall have printed an annual report, in pamphlet form, giving a classified statement of all receipts, expenditures, assets and liabilities of the city; a detailed

comparison of such receipts and expenditures with those of the year preceding; a summary of the Council proceedings and summary of the operations of the administrative departments for the previous twelve months. A copy of this report shall be furnished the State Bureau of Accounting, the Public Library and any citizen of the city who may apply therefor at the office of the Clerk of the Council.

## **IMPROVEMENTS—CONTRACTS.**

### **Limitation of Assessments.**

Section 69. In levying special assessments to pay any part of the cost of any public work or improvement, the Council shall not exceed any limitation as to the amount thereof which may be prescribed by the general laws of the State applicable to municipalities and in force at the time it is determined by the Council that any such work shall be done or improvement made. Unless for special reasons which shall be stated in the ordinance levying an assessment or providing for the issue of bonds to pay any part of the cost of any such improvement to be made pursuant to contract, no such ordinance shall be passed, or assessment levied or money borrowed, until bids for the labor and material have been received and the approximate cost of the improvement determined.

### **Improvements by Direct Labor.**

Section 70. Nothing in the preceding section shall be construed to prohibit the Council from doing any public work or making any public improvement by the direct employment of the necessary labor and the purchase of the necessary supplies and materials, with separate accounting as to each improvement so made, but the Council may upon so declaring by ordinance or resolution cause any public work or improvement to be done or made in such manner.

### **Sewer, Water and Gas Connections.**

Section 71. Before paving or otherwise surfacing or resurfacing any street or alley of the city, the Council shall determine the time within which sewer, water, gas or other connections shall be constructed, and shall give notice thereof to the persons or corporations required to make the same, and if such persons or corporations fail to make any such connection when so required no permission to make the same shall thereafter be granted within five years from the completion of any such street improvement unless with the consent of five members of the Council, expressed by resolution adopted at a regular meeting of the Council and stating the reasons therefor and the conditions under which the same shall be made. Nothing herein shall be construed to prohibit the Council from providing that such connections may be made by the city and the cost thereof assessed against the lots and lands specially benefited thereby.

### **Street Sprinkling.**

Section 72. Council may provide by ordinance or resolution for the sprinkling of streets or parts of streets with water, or treating the same with oil or other dust preventive, and for assessing the cost thereof against

the abutting property if not paid for by the owners of said property within the time specified in such ordinance or resolution. In determining what streets or parts of streets shall be so sprinkled or treated Council shall be governed as far as practicable by the wishes of a majority of the owners of the abutting property living thereon.

#### **Assessment for Removal of Snow, Weeds, Etc.**

Section 73. Council may provide by ordinance or resolution for assessing against the abutting property the cost of removing snow and ice from the sidewalks of the city, and for assessing against property the cost of cutting and removing therefrom noxious weeds and rubbish.

#### **Expenditures in Excess of \$1000.**

Section 74. A proposed expenditure, other than for the compensation of persons employed by the city, in excess of one thousand dollars, shall first be authorized by ordinance of the Council, and the contract therefor shall be made upon the approval of the City Manager and the Council.

#### **Time of Making Contracts.**

Section 75. The Council shall not authorize or enter into any contract which is not to go into full operation during the term for which all the members of such Council are elected.

#### **Modification of Contracts.**

Section 76. When it becomes necessary in the opinion of the City Manager, in the prosecution of any work or improvement under contract, to make alterations or modifications in such contract, such alterations or modifications, if made, shall be of no effect until the price to be paid for the work and material, or both, under the altered or modified contract, has been agreed upon in writing and signed by the contractor and by the City Manager and approved by the Council.

#### **Bids in Excess of Estimate.**

Section 77. No contracts shall be awarded upon bids which as a whole, or in aggregate, if bids for parts of the work are taken, exceed the estimate for the improvement contemplated.

#### **Contracts—When Void.**

Section 78. All contracts, agreements or other obligations entered into and all ordinances passed, or resolutions and orders adopted contrary to the provisions of the preceding sections, shall be void..

### **FRANCHISES.**

#### **Grants Limited.**

Section 79. No grant, or renewal thereof, to construct and operate a public utility in the streets and public grounds of the city shall be made by the Council to any individual, company or corporation in violation of any of the limitations contained in this Charter.

### **Period of Grants.**

Section 80. No such grant shall be exclusive, nor shall it be made for a longer period than twenty years. No such grant shall be renewed earlier than two years prior to its expiration unless the Council shall by a vote of at least five of its members first declare by ordinance its intention of considering a renewal thereof. All grants of the right to make extensions of any public utility shall be subject as far as practicable to the terms of the original grant and shall expire therewith.

### **Strict Construction.**

Section 81. All franchises or privileges for the occupation of the streets shall be strictly construed in favor of the city and no franchise or privilege shall be held to have been granted unless specified in clear and unmistakable terms.

### **Free Carriage of Policemen and Firemen.**

Section 82. The grant of every franchise for a street, suburban or interurban railroad may provide that policemen and firemen of the city in uniform shall at all times, while in the actual discharge of their duties, be allowed to ride in the cars of such railroad within the boundaries of the city without paying therefor and with all the rights of other passengers.

### **Assignment.**

Section 83. No such grant shall be leased, assigned or otherwise alienated except with the express consent of the Council.

### **Right of Purchase.**

Section 84. All such grants shall reserve to the city the right to purchase or lease all the property of the utility used in or useful for the operation of the utility, at a price either fixed in the ordinance making the grant, or to be fixed in the manner provided by such ordinance, which price shall in no event include any value for the grant. Nothing in such ordinance shall prevent the city from acquiring such property by condemnation proceedings or in any other lawful mode, but such rights and remedies shall be in addition to those reserved in such ordinance. Upon the acquisition of such property by purchase, condemnation or otherwise all grants shall at once terminate.

### **Extension by Annexation.**

Section 85. It shall be provided in every such grant that upon the annexation of any territory to the city the portion of any such utility that may be located within such annexed territory and upon the streets, alleys or public grounds thereof, shall thereafter be subject to all the terms of the grant as though it were an extension made thereof.

### **Consents.**

Section 86. No consent of the owner of property abutting on any highway or public ground shall be required for the construction, extension, maintenance or operation of any public utility by original grant or

renewal, unless such public utility is of such a character that its construction or operation is an additional burden upon the rights of the property owners in such highways or public grounds.

### **Right of Regulation.**

Section 87. All grants shall be subject to the right of the city, whether in terms reserved or not, to control at all times the distribution of space in, over, under or across all streets, alleys or public grounds, occupied by public utility fixtures, and, when in the opinion of the Council the public interest so requires, such fixtures may be caused to be reconstructed, relocated, altered or discontinued; and said city shall at all times have the power to pass all regulatory ordinances affecting such utilities which, in the opinion of the Council, are required in the interest of the public health, safety or accommodation.

### **Forfeitures.**

Section 88. If any action shall be instituted or prosecuted directly or indirectly by the grantee of any such grant, or by its stockholders or creditors, to set aside or have declared void any of the terms of such grant, the whole of such grant may be thereupon forfeited and annulled at the option of the Council, to be expressed by ordinance. All such grants shall make provision for the declaration of a forfeiture by the Council for the violation by the grantee of any of the terms thereof.

### **Paving and Sprinkling.**

Section 89. The Council by resolution may require the owner or operator of any railway, railroad or spur track lying within the street limits to lay, maintain and renew the pavements between the rails, and the tracks, and for a distance of one foot outside of the track, and to remove snow and ice therefrom and to sprinkle the roadway to a width of not more than fifty feet, and upon failure of any such owner or operator to comply with the provisions of such resolution after sixty days' notice to the person having charge or management of such railway, railroad or spur track in the city, the city may do said work directly or by contract, as in the case of other improvements, at the expense of the owner or operator of such tracks, and all such expense shall be reported by the City Manager to the Council, and shall be charged against such owner or operator and shall be a lien upon all the real estate and lease hold interest of such owner or operator within the County of Ashtabula, and such charge and cost, together with a penalty of \$25 for each and every day of failure on the part of such owner or operator to comply with the requirements of such resolution, may be collected in any Court of competent jurisdiction, or the lien enforced in the manner provided by law.

### **Accounts and Reports.**

Section 90. Every person or corporation operating a public utility within the city limits, whether under a grant heretofore or hereafter obtained, shall keep and maintain at some place within the city suitable and complete books of account, showing in detail the assets, financial obligations, gross revenue, net profits and all the operations of such utility

which are usually shown by a complete system of bookkeeping. Each person or corporation, within sixty days after the end of each of its fiscal years, unless the Council shall extend the time, shall file with the Council a report for the preceding fiscal year showing the gross revenue, the net profits, expenses of repairs, betterments and additions, amount paid for salaries, amount paid for interest and discount, other expenses of operation, and such other information, if any, as the Council from time to time may prescribe. Council may also prescribe the form for such reports.

It shall be the duty of each person or corporation to furnish the Council such supplementary or special information about its affairs as Council may demand; and the Council, or its authorized representative, shall at any and all reasonable times have access to all the books, records, and papers of each and every such person or corporation, with the privilege of making copies of same or any part thereof. The duties herein prescribed may be specifically enforced by appropriate legal proceedings; and in addition, each such person or corporation, for failure to comply with the provisions of this section, shall be liable to the City of Ashtabula, Ohio, in the sum of twenty-five dollars per day for each day of such failure, to be recovered in a civil action in the name of the city.

The provisions of this section do not apply to any utility extending in its operations to other communities not properly suburban to the City of Ashtabula, Ohio; but the Council by ordinance may make the same, or any part thereof, applicable to the portion of any such utility operated within the limits of the city.

#### **Grants Not Included.**

Section 91. Revocable permits for laying spur tracks across or along streets, alleys or public grounds, to connect a steam or electric railroad with any property in need of switching facilities shall not be regarded as a grant within the meaning of this Charter, but may be permitted in accordance with such terms and conditions as the Council may by ordinance prescribe.

#### **General Provision.**

Section 92. Nothing in this Charter contained shall operate in any way, except as herein specifically stated, to limit the Council in the exercise of any of its lawful powers respecting public utilities, or to prohibit the Council from imposing in any such grant such further restrictions and provisions as it may deem to be in the public interest, provided only that the same are not inconsistent with the provisions of this Charter or the Constitution of the State.

#### **MISCELLANEOUS PROVISIONS.**

##### **General Laws to Apply.**

Section 93. All general laws of the State applicable to municipal corporations, now or hereafter enacted, and which are not in conflict with the provisions of this Charter, or with ordinances or resolutions hereafter enacted by the Council, shall be applicable to this City and all officers and departments thereof; provided, however, that nothing contained in this

Charter shall be construed as limiting the power of the Council to enact any ordinance or resolution and in conflict with the Constitution of the State or with the express provisions of this Charter.

### **Ordinances Continued in Force.**

Section 94. All ordinances and resolutions in force at the time of the taking effect of this Charter, not inconsistent with its provisions, shall continue in full force and effect until amended or repealed.

### **Continuance of Present Officers.**

Section 95. All persons, except the members of the Board of Education and the Police Judge, holding office at the time this Charter is adopted shall continue in office and in the performance of their duties until provision shall have been otherwise made in accordance with this Charter for the performance or discontinuance of the duties of any such office. When such provision shall have been made the term of any such officer shall expire and the office be deemed abolished. The powers which are conferred and the duties which are imposed upon any officer, board or department of the city under the laws of the State, or under any city ordinance or contract in force at the time of the taking effect of this act shall, if such office or department is abolished by this Charter, be thereafter exercised and discharged by the Council, officer, board or department upon whom are imposed corresponding functions, powers and duties by this Charter or by any ordinance or resolution of the Council hereafter enacted.

### **Continuance of Contracts and Vested Rights.**

Section 96. All vested rights of the city shall continue to be vested and shall not in any manner be affected by the adoption of this Charter; nor shall any right or liability, or pending suit or prosecution, either in behalf of or against the city, be in any manner affected by the adoption of this Charter, unless otherwise herein expressly provided to the contrary. All contracts entered into by the city or for its benefit prior to the taking effect of this Charter shall continue in full force and effect. All public work begun prior to the taking effect of this Charter shall be continued and perfected hereunder. Public improvements for which legislative steps shall have been taken, under laws in force at the time this Charter takes effect may be carried to completion in accordance with the provisions of such laws.

### **Investigation.**

Section 97. The Council, or any committee thereof, the City Manager and any advisory board appointed by the Council for such purpose, shall have power at any time to cause the affairs of any department or the conduct of any officer or employee to be investigated; and for such purpose shall have power to compel the attendance of witnesses and the production of books, papers and other evidence; and for that purpose may issue subpoenas or attachments which shall be signed by the President or Chairman of the body or by the officer making the investigation, and shall be served by any officer authorized by law to serve such process. The authority making such investigation shall also have power to cause the



testimony to be given under oath to be administered by some officer authorized by general law to administer oaths; and shall also have power to punish as for contempt any person refusing to testify to any fact within his knowledge, or to produce any books, or papers under his control, relating to the matter under investigation.

#### **Oath of Office.**

Section 98. All officers before taking office shall take the oath of office prescribed by law, the same to be in writing and filed with the City Auditor.

#### **Hours of Labor.**

Section 99. Except in case of extraordinary emergencies, not to exceed eight hours shall constitute a day's work, and not to exceed forty-eight hours a week's work, for workmen engaged on any public work carried on or aided by the municipality, whether done by contract or otherwise. The Council shall, by ordinance, provide for the enforcement of the provisions of this section.

#### **Amendment of Charter.**

Section 100. Amendments to this Charter may be submitted to the electors of the city by a two-thirds vote of the Council, and, upon petition signed by ten (10) per cent. of the electors of the city, setting forth any such proposed amendment, shall be submitted by such Council. The ordinance providing for the submission of any such amendment shall require that it be submitted to the electors at the next regular municipal election if one shall occur not less than sixty nor more than one hundred and twenty days after its passage; otherwise it shall provide for the submission of the amendment at a special election to be called and held within the time aforesaid. Not less than thirty days prior to such election the Clerk of the Council shall mail a copy of the proposed amendment to each elector whose name appears upon the poll or registration books of the last regular municipal or general election. If such proposed amendment is approved by a majority of the electors voting thereon it shall become a part of the Charter at the time fixed therein.

#### **Saving Clause.**

Section 101. If any section or part of a section of this Charter proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section of this Charter, unless it clearly appear that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section so held unconstitutional or invalid.

#### **When Charter Takes Effect.**

Section 102. For the purpose of nominating and electing officers and all purposes connected therewith and for the purpose of exercising the powers of the City as provided herein, this Charter shall take effect from the time of its approval by the electors of the City. For the purpose of establishing departments, divisions and officers, and distributing the

functions thereof, and for all other purposes it shall take effect on the first day of January, 1916.

We, the undersigned members of the Charter Commission of the City of Ashtabula, Ohio, elected at a general election held on the 4th day of November, 1913, have framed and hereby propose the foregoing as a Charter for the City of Ashtabula, Ohio.

Done in duplicate in the City of Ashtabula, Ohio, this 8th day of September, A. D. 1914.

#### THE CHARTER COMMISSION

P. C. REMICK, President.

W. E. BOYNTON, 1st Vice-President.

THEODORE HALL, 2d Vice-President.

F. R. HOGUE, Secretary.

E. R. PIERCE, Treasurer.

C. H. GALLUP

JOHN J. KOSKI

F. J. KEMPEL

CHAS. E. WALLIN

H. W. LUETHI

M. G. PECK

H. C. DIETERICH

J. D. KNOWLTON

W. E. WENNER

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